

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROMY THOMPSON,

Plaintiff,

v.

SHELDON THOMPSON, et al.,

Defendants.

Case No. 1:22-cv-00935-SKO

**ORDER DENYING WITHOUT
PREJUDICE MOTIONS TO
WITHDRAW AND CONTINUING
MANDATORY SCHEDULING
CONFERENCE**

(Docs. 34 & 36)

I. INTRODUCTION

On November 9, 2022, David Greenberg and Adrian F. LaPeyronnie, III of the law firm of Greenberg & LaPeyronnie, LLC (“Attorneys Greenberg and LaPeyronnie”), attorneys for Defendants Sheldon Thompson, Marie-Merced Thompson, and Skye Thompson (collectively, “Defendants”), filed a motion to withdraw. (Doc. 34.) On November 14, 2022, Edward John Rantz, Jr. of the law firm of Middleberg Riddle Group (“Attorney Rantz”), attorney for Plaintiff Romy Thompson (“Plaintiff”), filed a motion to withdraw. (Doc. 36.)

Upon consideration of the motions, and for the reasons set forth below, Attorneys Greenberg and LaPeyronnie’s and Attorney Rantz’s motions to withdraw are DENIED without prejudice.

II. BACKGROUND

On June 14, 2021, Plaintiff initiated this action in the United States District Court for the Eastern District of Louisiana. (*See* Doc. 1.) In the operative complaint, Plaintiff alleges that Defendants, her parents and brother, improperly withheld profits generated from a jointly owned

1 business. (*See id.*)

2 On July 27, 2022, the Eastern District of Louisiana granted Defendants’ motion to transfer
3 venue to this Court pursuant to 28 U.S.C. §1404(a), and this case was transferred to this Court on
4 July 28, 2022. (*See Docs. 28, 29.*) Upon transfer of this action, the Court set a Mandatory Scheduling
5 Conference for November 15, 2022, which was continued to February 16, 2023. (*See Doc. 30, 32.*)

6 In the motions to withdraw, which are substantively identical, Attorneys Greenberg and
7 LaPeyronnie and Attorney Rantz seek withdrawal because “they are not licensed to practice law in
8 any state or federal courts in the State of California.” (Doc. 34 at 1; Doc. 36 at 1.) According to the
9 motions, the clients of Attorneys Greenberg and LaPeyronnie and Attorney Rantz “have no
10 objection to movers withdrawing as counsel of record” for them in this proceeding. (Doc. 34 at 1–
11 2; Doc. 36 at 1.)

12 III. DISCUSSION

13 A. Legal Standard

14 Permissive withdrawal as attorney of record is governed by Local Rule 182 of the Local
15 Rules of the United States District Court for the Eastern District of California (“Local Rules”) and
16 Rule 1.16 of the Rules of Professional Conduct of the State Bar of California (“Rules of Professional
17 Conduct”). Local Rule 182(d) provides as follows:

18 Unless otherwise provided herein, an attorney who has appeared may not withdraw
19 leaving the client in *propria persona* without leave of court upon noticed motion
20 and notice to the client and all other parties who have appeared. The attorney shall
21 provide an affidavit stating the current or last known address or addresses of the
22 client and the efforts made to notify the client of the motion to withdraw.
23 Withdrawal as attorney is governed by the Rules of Professional Conduct of the
24 State Bar of California, and the attorney shall conform to the requirements of those
25 Rules. The authority and duty of the attorney shall continue until relieved by order
26 of the Court issued hereunder. Leave to withdraw may be granted subject to such
27 appropriate conditions as the Court deems fit.

28 E.D. Cal. L.R. 182(d). The Rules of Professional Conduct govern the conduct of attorneys before
this Court regardless of whether they are admitted to the California State Bar, as “the Rules of
Professional Conduct of the State Bar of California are incorporated by reference into the local
rules.” *CE Res., Inc. v. Magellan Grp., LLC*, No. 2:08–cv–02999–MCE–KJM, 2009 WL 3367489,
at *1 (E.D. Cal. Oct. 14, 2009). *See also* La. St. Bar. Art. 14 RPC Rule 1.16(c) (“A lawyer must

1 comply with applicable law requiring notice to or permission of a tribunal when terminating a
2 representation.”).

3 Rule of Professional Conduct 1.16(b)(9) provides that an attorney may request permission
4 to withdraw where “a continuation of the representation is likely to result in a violation of these
5 rules or the State Bar Act.” Rule 1.16(d) further instructs that “[a] lawyer shall not terminate a
6 representation until the lawyer has taken reasonable steps to avoid reasonably foreseeable prejudice
7 to the rights of the client, such as giving the client sufficient notice to permit the client to retain other
8 [attorney(s)], and complying with paragraph (e).”¹ In the Ninth Circuit, the Rules of Professional
9 Conduct are interpreted according to California state law. *Williams v. Troehler*, No. 1:08-cv-
10 01523-OWW-GSA, 2010 WL 11570438, at *2 (E.D. Cal. June 23, 2010) (citing *Image Technical*
11 *Services, Inc. v. Eastman Kodak Co.*, 820 F. Supp. 1212, 1215 (N.D. Cal. 1993)). The decision to
12 grant or deny a motion to withdraw as attorney is committed to the sound discretion of the trial
13 court. *Id.* (citing *LaGrand v. Stewart*, 133 F.3d 1253, 1269 (9th Cir. 1998)); *Estate of Falco*, 188
14 Cal. App. 3d 1004, 1014 (1987) (“[A] trial court should have broad discretion in allowing attorneys
15 to withdraw”).

16 The decision to grant or deny a motion to withdraw is within the court’s discretion. *McNally*
17 *v. Eye Dog Found. for the Blind, Inc.*, No. 1:09-cv-01184-AWI-SKO, 2011 WL 1087117, at *1
18 (E.D. Cal. Mar. 24, 2011) (citation omitted).

19 **B. Analysis**

20 The Court does not have sufficient information to determine whether the withdrawal of
21 representation by Attorneys Greenberg and LaPeyronnie and Attorney Rantz is appropriate. As set
22 forth above, Rule of Professional Conduct 1.16(d) and (e) require that a withdrawing lawyer take
23 “reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, such as giving
24 the client sufficient notice to permit the client to retain other attorneys” and return any property and
25 funds in their possession to their client. Other than indicating that their clients “have no objection
26 to movers withdrawing as counsel of record” for them in this proceeding (Doc. 34 at 1–2; Doc. 36
27 at 1), Attorneys Greenberg and LaPeyronnie’s and Attorney Rantz’s motions to withdraw do not

28 ¹ Paragraph (e) of Rule 1.16 pertains to returning property and funds to clients.

1 address these requirements. Absent any description of Attorneys Greenberg and LaPeyronnie's and
 2 Attorney Rantz's efforts to comply with Rule of Professional Conduct 1.16(d) and (e), the Court
 3 cannot determine whether they have taken reasonable steps to avoid reasonably foreseeable
 4 prejudice to their clients' rights, including allowing sufficient time for them to retain other counsel
 5 who may practice in this Court.² The Court also cannot determine whether any of the clients'
 6 property remains in the possession of the attorneys.

7 IV. CONCLUSION AND ORDER

8 Accordingly, it is HEREBY ORDERED that Attorneys Greenberg and LaPeyronnie's
 9 motion to withdraw (Doc. 34) and Attorney Rantz's motion to withdraw (Doc. 36) are DENIED
 10 without prejudice. If any of these attorneys renew their motions to withdraw, the renewed motions
 11 must (without disclosing privileged communications) explain their efforts to comply with Rule of
 12 Professional Conduct 1.16(d) and (e). They shall also file proof of service of any motions to
 13 withdraw, as well as any of the Court's orders directed to it, on their respective clients, as previously
 14 ordered. (*See* Docs. 35, 37.)

15 To afford time for the renewal of any motion to withdraw (or the filing of an application to
 16 appear *pro hac vice*), the Mandatory Scheduling Conference currently set for February 16, 2023, is
 17 **CONTINUED to April 27, 2023, at 9:45 a.m.** before Magistrate Judge Sheila K. Oberto. The
 18 parties SHALL file their joint scheduling report by no later than April 20, 2023.

19
 20 IT IS SO ORDERED.

21 Dated: **December 20, 2022**

/s/ Sheila K. Oberto
 UNITED STATES MAGISTRATE JUDGE

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 28 ² The Court observes that even an attorney who is not a member of the State Bar of California may be permitted to appear and participate in a particular case *pro hac vice*, subject to certain requirements. *See* E.D. Cal. L.R. 180(b)(2).